

House File 2341 - Introduced

HOUSE FILE 2341
BY ISENHART

A BILL FOR

1 An Act relating to the payment of penalties and interest for
2 failure to pay sales and use taxes and including effective
3 date and retroactive applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 421.27, Code 2009, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 1A. *Waiver of penalty and interest for*
4 *failure to file sales or use tax return or deposit form.*

5 a. The penalty described in subsection 1, if assessed
6 against a taxpayer, and any interest assessed pursuant to
7 section 423.40 may be waived by the department if all of the
8 following conditions are met:

9 (1) The taxpayer is a purchaser of tangible personal
10 property or services which are subject to the sales and use
11 taxes imposed under chapter 423.

12 (2) The purchaser is subject to the penalties and interest
13 pursuant to section 423.40 as a result of a failure to file a
14 sales or use tax return pursuant to section 423.37.

15 (3) The return the purchaser failed to file was required
16 because of the failure of another taxpayer to pay or collect
17 the taxes due under chapter 423.

18 (4) The purchaser did not know of the other taxpayer's
19 failure to pay or collect the taxes due under chapter 423.

20 b. A waiver granted to a purchaser under this subsection
21 does not apply to the taxpayer described in subparagraph (3).

22 NEW SUBSECTION. 2A. *Waiver of penalty and interest for*
23 *failure to timely pay the tax shown due, or the tax required to*
24 *be shown due, with the filing of a return or deposit form.*

25 a. The penalty described in subsection 2, if assessed
26 against a taxpayer, and any interest assessed pursuant to
27 section 423.40 may be waived by the department if all of the
28 following conditions are met:

29 (1) The taxpayer is a purchaser of tangible personal
30 property or services which are subject to the sales and use
31 taxes imposed under chapter 423.

32 (2) The purchaser is subject to the penalties and interest
33 pursuant to section 423.40 as a result of a failure to pay the
34 amount shown due or required to be shown due on a sales or use
35 tax return pursuant to section 423.37.

1 (3) The failure to pay the amount shown due or required to
2 be shown due was the result of the failure of another taxpayer
3 to pay or collect the taxes due under chapter 423.

4 (4) The purchaser did not know of the other taxpayer's
5 failure to pay or collect the taxes due under chapter 423.

6 b. A waiver granted to a purchaser under this subsection
7 does not apply to the taxpayer described in subparagraph (3).

8 Sec. 2. REFUNDS. Refunds of interest or penalties which
9 arise from claims resulting from the enactment of section
10 421.27, subsections 1A and 2A, in this Act, for the assessment
11 of interest or penalties occurring between January 1, 2009,
12 and the effective date of this Act, shall be limited to fifty
13 thousand dollars in the aggregate and shall not be allowed
14 unless refund claims are filed prior to October 1, 2010,
15 notwithstanding any other provision of law. If the amount
16 of claims totals more than fifty thousand dollars in the
17 aggregate, the department of revenue and finance shall prorate
18 the fifty thousand dollars among all claimants in relation to
19 the amounts of the claimants' valid claims.

20 Sec. 3. EFFECTIVE UPON ENACTMENT AND RETROACTIVE
21 APPLICABILITY. This Act, being deemed of immediate importance,
22 takes effect upon enactment and applies retroactively to
23 January 1, 2009, for the assessment of interest or penalties
24 on or after that date.

25 EXPLANATION

26 This bill relates to penalties for failure to file sales or
27 use tax returns or to pay the amount of sales or use tax due or
28 required to be shown due.

29 Currently, a taxpayer who fails to file a return is subject
30 to a 10 percent penalty and a taxpayer who fails to pay or
31 pays the wrong amount is subject to a 5 percent penalty.
32 The department does not currently have the ability to waive
33 these penalties or the interest on them. The bill gives the
34 department limited discretionary authority to grant a waiver of
35 the penalties and interest if all of the following conditions

1 are met: (1) the taxpayer is a purchaser of tangible personal
2 property or services which are subject to the sales and use
3 taxes imposed under chapter 423; (2) the purchaser is subject
4 to the penalties and interest pursuant to section 423.40 as a
5 result of either a failure to file or to pay the amount shown
6 due or required to be shown due on a sales or use tax return
7 pursuant to section 423.37; (3) the failure to file or to pay
8 was the result of the failure of another taxpayer to pay or
9 collect the taxes due under chapter 423; (4) the purchaser did
10 not know of the other taxpayer's failure to pay or collect the
11 taxes due under chapter 423.